

Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
61 Forsyth St., Suite 4T20  
Atlanta, Georgia 30303-8909



May 1, 2006

Ms. Shannon R. Turner, J.D.  
Commissioner  
Department for Medicaid Services  
Sixth Floor  
275 East Main Street  
Frankfort, Kentucky 40621-0001

Attention: Stephanie Brammer-Barnes

RE: Kentucky Title XIX State Plan Amendment, Transmittal #06-001

Dear Ms. Turner:

This is a follow up to the approval letter that your office should have received from Ms. Deirdre Duzor, Director, Division of Pharmacy, Centers for Medicare & Medicaid Services, dated April 26, 2006, regarding State Plan Amendment 06-001. Enclosed is a copy of the approval letter, the signed HCFA-179 and the approved plan pages.

The effective date of this amendment is March 1, 2006.

Sincerely,

A handwritten signature in black ink that reads 'Renard L. Murray'. The signature is written in a cursive, flowing style.

Renard L. Murray, D.M.  
Associate Regional Administrator  
Division of Medicaid & Children's Health

Enclosures

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop C2-21-15  
Baltimore, Maryland 21244-1850



**Center for Medicaid and State Operations**

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April 26, 2006

Shannon R. Turner, J.D.  
Commissioner  
Commonwealth of Kentucky  
Office of Medicaid Services  
275 East Main Street, 6E-C  
Frankfort, Kentucky 40621-0001

Dear Ms. Turner:

We have reviewed Kentucky's State Plan Amendment 06-001, including the additional information submitted by the state at the request of CMS. The amendment establishes a limit of four prescriptions per month, unless a physician provides sufficient information that a medical need exists. We are pleased to inform you that the amendment is approved, effective March 1, 2006.

A copy of the CMS-179 form, with the pen and ink changes authorized by the state, as well as the pages approved for incorporation into the Kentucky state plan, will be forwarded by the Atlanta Regional Office. If you have any questions regarding this amendment, please contact Marge Watchorn at (410) 786-4361.

Sincerely,

/s/

Deirdre Duzor  
Director  
Division of Pharmacy

cc: Renard Murray, Associate Regional Administrator, Atlanta Regional Office  
Maria Donatto, Atlanta Regional Office  
Davida Kimble, Atlanta Regional Office

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

1. TRANSMITTAL NUMBER:  
06-001

2. STATE  
Kentucky

FROM: HEALTH CARE FINANCING ADMINISTRATION

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE  
March 1, 2006

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:  
42 C.F.R. 430, 431, 440, 447

7. FEDERAL BUDGET IMPACT:  
a. FFY 2006 \$45 Million  
b. FFY 2007 \$77.1 Million

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 3.1-A, Page 7.5.2  
Attachment 3.1-B, Page 31.1

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):

Same

10. SUBJECT OF AMENDMENT:

Prescription Limits

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED: Review delegated  
to Commissioner, Department for Medicaid  
Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:

*Shannon Turner*

13. TYPED NAME: Shannon Turner, J.D.

14. TITLE: Commissioner, Department for Medicaid Services

15. DATE SUBMITTED:

16. RETURN TO:

Department for Medicaid Services  
275 East Main Street 6W-A  
Frankfort, Kentucky 40621

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:  
March 20, 2006

18. DATE APPROVED:  
April 26, 2006

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:  
March 1, 2006

20. SIGNATURE OF REGIONAL OFFICIAL:

*Renard L. Murray*

21. TYPED NAME:

Renard L. Murray, D.M.

22. TITLE: Associate Regional Administrator  
Division of Medicaid & Children's Health

23. REMARKS:

Approved with the following changes made to Item 7 as authorized by the State Agency  
on e-mail dated April 13, 2006: Item 7a changed to read: "FFY 2006 (\$45 Million)"; Item 7b  
changed to read: "FFY 2007 (\$77.1 Million)".

- (c) A drug for which the drug manufacturer has not entered into or has not complied with a rebate agreement in accordance with 42 USC 1396r-8(a) unless there has been a review and determination by the department that it shall be in the best interest of Medicaid recipients for the department to make payment for the non-rebated drug.  
Note: Because federal financial participation is not generally available for a non-rebated drug, state funds will be used to cover such drugs if necessary to protect the health of a Medicaid recipient and no other appropriate options exist;
  - (d) A drug provided to a recipient in an institution in which drugs are considered a part of the reasonable allowable costs under the Kentucky Medicaid Program;
  - (e) A drug used to treat sexual or erectile dysfunction, unless the drug is FDA approved to treat a condition other than sexual or erectile dysfunction. (This provision is effective 01-01-06); and
  - (f) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service. However, a legend drug may be provided through prior authorization to a recipient admitted to an inpatient facility that does not bill patients, Medicaid, or other third-party payers for health care services.
- (4) A patient "locked-in" to one pharmacy due to over-utilization may receive pharmacy services only from his/her lock-in provider except in the case of an emergency or by referral.
- (5) If authorized by the prescriber, a prescription for a controlled substance in Schedule III-V may be refilled up to five times within a six month period from the date the prescription was written or ordered; a noncontrolled substance may be refilled up to 11 times within a 12 month period from the date the prescription was written or ordered. In addition, a prescription fill for a maintenance drug shall be dispensed in a 92-day supply if a recipient has demonstrated stability on the maintenance drug. However, a 92-day supply of a maintenance drug shall not be dispensed if a prescribing provider specifies that the quantity should be less. Also, individuals receiving supports for community living services shall not be subject to the 92-day supply requirement.
- (6) Kentucky will cover no more than a total of four (4) prescriptions, of which no more than three (3) shall be brand name prescriptions, per recipient per month. If a physician provides sufficient information that a medical need exists for a Medicaid member to receive more than four prescriptions or more than three brand name drug prescriptions in a one-month period, an exception to the four-script limit or three brand allowance will be allowed.
- (7) A refill of a prescription shall not be covered unless at least 80 percent of the prescription time period has elapsed. However, a refill may be covered before 80 percent of the prescription time period has elapsed if the prescribing provider submits a prior authorization request for override consideration.
- (8) Supplemental Rebate Program:  
The state is in compliance with Section 1927 of the Social Security Act. The state has the following policies for the Supplemental Rebate Program for the Medicaid population:
- (a) CMS has authorized the State of Kentucky to enter into the Michigan multi-state pooling agreement (MMSPA) retroactive to the quarter State Plan Amendment 04-006 was filed. The Amendment to Supplemental Drug Rebate Agreement was submitted to CMS on January 6, 2005.

- (c) A drug for which the drug manufacturer has not entered into or has not complied with a rebate agreement in accordance with 42 USC 1396r-8(a) unless there has been a review and determination by the department that it shall be in the best interest of Medicaid recipients for the department to make payment for the non-rebated drug.  
Note: Because federal financial participation is not generally available for a non-rebated drug, state funds will be used to cover such drugs if necessary to protect the health of a Medicaid recipient and no other appropriate options exist;
  - (d) A drug provided to a recipient in an institution in which drugs are considered a part of the reasonable allowable costs under the Kentucky Medicaid Program;
  - (e) A drug used to treat sexual or erectile dysfunction, unless the drug is FDA approved to treat a condition other than sexual or erectile dysfunction. (This provision is effective 01-01-06); and
  - (f) A drug dispensed as part of, or incident to and in the same setting as, an inpatient hospital service, an outpatient hospital service, or an ambulatory surgical center service. However, a legend drug may be provided through prior authorization to a recipient admitted to an inpatient facility that does not bill patients, Medicaid, or other third-party payers for health care services.
- (4) A patient "locked-in" to one pharmacy due to over-utilization may receive pharmacy services only from his/her lock-in provider except in the case of an emergency or by referral.
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- (a) CMS has authorized the State of Kentucky to enter into the Michigan multi-state pooling agreement (MMSPA) retroactive to the quarter State Plan Amendment 04-006 was filed. The Amendment to Supplemental Drug Rebate Agreement was submitted to CMS on January 6, 2005.